



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

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[www.deq.virginia.gov](http://www.deq.virginia.gov)

Douglas W. Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4020  
1-800-592-5482

### MINUTES STATE WATER CONTROL BOARD

September 22, 2011  
General Assembly Building, House Room D  
Richmond, Virginia

#### Board Members Present:

W. Shelton Miles, III, Chair  
Lou Ann Jessee Wallace  
William A Pruitt

Robert H. Wayland, III, Vice-Chair  
William B. Bott  
Roberta A. Kellam

#### Board Member Absent:

Robert L. Dunn

#### Staff Present:

David K. Paylor, Director  
Department of Environmental Quality

Cindy M. Berndt  
Department of Environmental Quality

#### Attorney General's Office:

David C. Grandis, Assistant Attorney General

- 1) The attached minutes summarize activities that took place at this Board Meeting.
- 2) The meeting was convened on Thursday, September 22, 2011, at 9:35 a.m., recessed at 10:52 a.m., reconvened at 11:03 a.m., recessed for lunch at 12:08 p.m. and reconvened at 1:05 p.m., recessed at 3:00 p.m., reconvened at 4:15 p.m. and adjourned at 4:35 p.m.

[Note: The second day, September 23, 2011, was cancelled.]

Approved Minute 2  
December 14, 2011



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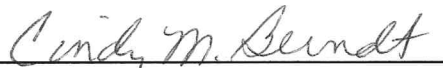
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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 1 - Minutes**

The Board approved the Minutes from the August 4, 2011, meeting as contained in the Board book.

  
Cindy M. Berndt



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING OF SEPTEMBER 22, 2011

#### **MINUTE NO. 2 - Regulations – Final: Fee Regulation, VPDES Permit Regulation and VPA Permit Regulation - Biosolids Amendments**

Prior to the meeting, the Board was provided with final amendments to the Fees for Permits and Certificates regulation (9VAC25-20), Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32) relating to land application of biosolids. These amendments included changes made by staff in response to comment received during a public comment period held from March 1 through April 29, 2011. At the meeting, the Board was also provided with an errata list containing typographical corrections.

Neil Zahradka gave the staff presentation. The following persons presented public comment: Fred Meadows, Barry Dunkley, Lynwood Broadus, John N. Mills, Jr., Rhonda Bowen, Steve Wagner, Mike McEvoy, Mary Graf, Lisa Ochsenhirt, Clarke Wallcraft, Jeff Kelbe, Susan Trumbo, and Tim Hayes.

Following Board discussion, the Board requested that staff provide alternative regulatory language to address two issues: 1) adding a requirement for a physician's note when an extended setback from an occupied dwelling or property line is requested; and 2) requiring that notification signs posted at land application sites not be removed for 30 days after land application concludes at permitted sites.

Staff presented three options to the Board addressing the procedure to request an extended setback: 1) the original staff recommendation that setback extensions be granted upon request; 2) requiring that the person making the request for a setback extension must state that it is for medical reasons; and 3) that the request for a setback extension must be accompanied by a physician's note. The Board voted 5 to 1 (Kellam voted no) to approve option 3 requiring a physician's note. Staff also presented alternative language regarding not removing notification signs posted at land application sites for at least 30 days.

The staff recommended that the Board approve the regulatory amendments as final regulations, with the inclusion of the errata and Board approved amendments 1) adding a requirement for a physician's note when an extended setback from an occupied dwelling or property line is requested; and 2) requiring that notification signs posted at land application sites not be removed for 30 days after land application concludes at permitted sites.

### **Board Decision**

The Board voted unanimously to approved the staff recommendation and accept as final regulations, the proposed amendments to the Fees for Permits and Certificates regulation (9VAC25-10 et seq.), the VPDES Permit Regulation (9VAC25-31-10 et seq.) and the VPA Permit Regulation (9VAC25-32-10 et seq.), including the errata and Board approved amendments 1) adding a requirement for a physician's note when an extended setback from an occupied dwelling or property line is requested; and 2) requiring that notification signs posted at land application sites not be removed for 30 days after land application concludes at permitted sites.



**Melanie D. Davenport**  
**Director, Division of Water Quality Programs**





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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011

#### MINUTE NO. 3 – 9VAC25-820 General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia

This proposed regulation is for the reissuance of the watershed general permit for nutrient discharges to the Chesapeake Bay watershed. The current general permit will expire on December 31, 2011. Allan Brockenbrough from the Office of Water Permit and Compliance Assistance presented to the Board proposed amendments to this general permit made in response to both the Chesapeake Bay TMDL and comments received during the public comment period.

#### Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously to adopt the General VPDES Watershed Permit for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (9VAC25-820) and to affirm that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision of the regulation, as provided by the Administrative Process Act.

A handwritten signature in blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport  
Director, Water Division



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON AUGUST 4, 2011

#### MINUTE NO. 4 – Exempt Final Action to Amend the Water Quality Management Planning Regulation (9 VAC 25-720-50.C.): FCWSA-Vint Hill WWTP Nutrient Waste Load Allocations

John Kennedy/OWQP-Chesapeake Bay Program made the staff presentation on an Exempt Final Action to amend the Water Quality Management Planning Regulation (WQMP; 9 VAC 25-720), revising the total nitrogen (TN) waste load allocation (WLA) for the Fauquier Co. Water & Sewer Authority (FCW&SA) -Vint Hill WWTP (VPDES VA0020460) from 8,680 to 11,573 lbs/yr. The higher allocation is consistent with the Chesapeake Bay TMDL established by EPA in December 2010.

It was explained that in November 2005, the FCW&SA submitted a Petition of Appeal to the court, contesting adoption of amendments to the WQMP Regulation by the Board at their September 27, 2005 meeting. FCW&SA requested that the regulation be declared invalid and remanded to the Board for further proceedings, with the contention that the TN WLA approved for their Vint Hill WWTP was too low.

The original basis for the Board-approved FCW&SA-Vint Hill TN WLA and the Authority's requested revisions were:

	Design Flow (MGD)	Annual Avg. TN (mg/L)	TN WLA (lbs/yr)	Annual Avg. TP (mg/L)	TP WLA (lbs/yr)
SWCB-Approved	0.95	3.0	8,680	0.3	868
Requested Allocations	0.95	8.0	23,146	0.3	868
Difference	No change	+ 5.0	+ 14,466	No change	No change

Subsequently, negotiations were held between DEQ and FCW&SA which lead to a Settlement Agreement between the parties that became effective May 26, 2009. The principal provision of the Agreement was that DEQ would initiate a rulemaking, to propose amending the WQMP Regulation by increasing Vint Hill's TN WLA, based on a concentration of 4 rather than 3 mg/l. That process was started, but then suspended when work began to finalize EPA's Chesapeake Bay TMDL and Virginia's Watershed Implementation Plan (WIP). The WIP included the higher



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011

#### MINUTE NO. 5 – 9VAC25-194 General VPDES Permit Regulation for Vehicle Wash Facilities and Laundry Facilities 9VAC25-810 General VPDES Permit for Coin-Operated Laundries

This proposed regulation is for the reissuance of the general permit for vehicle wash facilities and laundry facilities. The current general permit will expire on October 15, 2012. Elleanore Daub from the Office of Water Permit and Compliance Assistance presented to the Board proposed amendments to this general permit. This rulemaking proposes to replace and update VAG75 (the VPDES Car Wash General Permit) which expires October 16, 2012 and combine into this permit VAG72 (the VPDES Coin-Operated Laundry General Permit) which expires February 8, 2016. A secondary action associated with this rulemaking is the repeal of the VPDES Coin-Operated Laundry General Permit since the requirements of that permit (VAG72) are being incorporated into VAG75.

#### Board Decision:

Based on the briefing material and the staff presentation, the Board voted unanimously to authorize a notice of public comment period and to hold public hearings for the proposed amendments to 9VAC25-194 and the repeal of 9VAC25-810. The Board also voted unanimously to authorize the staff to serve as hearing officer at the public hearings.

A handwritten signature in blue ink that reads "Melanie D. Davenport".

Melanie D. Davenport  
Director, Water Division





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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 6 – VPDES Program Consent Special Orders**

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. E. I. DuPont de Nemours and Company
2. Omega Protein, Inc.
3. ROCKTENN CP, LLC
4. Timothy D. Ogburn, d/b/a Dinwiddie Car Wash
5. Southampton County, Town of Boykins WTP
6. Fluvanna School Board

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in blue ink, reading "Kathleen F. O'Connell", written over a horizontal line.

Kathleen F. O'Connell  
Water Enforcement Program Manager  
Division of Enforcement





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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011

#### MINUTE NO. 7 – VWP Program/Ground Water Program Consent Special Orders

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. Four Seasons at Historic Virginia
2. Charlottesville Albemarle Airport Authority

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in blue ink, reading "Kathleen F. O'Connell".

Kathleen F. O'Connell  
Water Enforcement Program Manager  
Division of Enforcement



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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 8 – Oil Programs Consent Special Orders**

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Order for:

#### **1. Kenan Transport (Henrico County)**

The Board unanimously approved the Order and further authorized the Department's Director to execute the Order on the Board's behalf and to refer violations of the Order to the Office of the Attorney General for appropriate legal action.

  
Kathleen F. O'Connell  
Water Enforcement Program Manager  
Division of Enforcement



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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 9 – Other Consent Special Orders**

Kathleen O'Connell, Water Enforcement Program Manager, presented to the Board the Consent Special Orders for:

1. W. Harold Talley II, LLC
2. Duplin Marketing, LLC
3. Route 240 LLC

The Board unanimously approved the Orders and further authorized the Department's Director to execute the Orders on the Board's behalf and to refer violations of the Orders to the Office of the Attorney General for appropriate legal action.

A handwritten signature in blue ink, reading "Kathleen F. O'Connell".

Kathleen F. O'Connell  
Water Enforcement Program Manager  
Division of Enforcement





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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 10 – Public Forum**

No one appeared during the public forum.

A handwritten signature in cursive script that reads "Cindy M. Berndt".

**Cindy M. Berndt**



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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 11- Development of Virginia's FY 2012 Clean Water Revolving Loan Project Priority List**

Mr. Walter Gills of the Department's Construction Assistance Program, made a presentation to the Board based on a staff memorandum dated August 24, 2011 pertaining to the development of Virginia's Clean Water Revolving Loan Project Priority List and Intended Use Plan for FY 2012.

Mr. Gills began by referencing the attachments included with the staff's memorandum providing the Board with a description of the projects being considered and presenting the FY 2012 applicants in priority funding order. The 2012 application pool was large at \$157.1 million. He noted that there would be approximately \$100 million in base funds available to fund this year's projects.


Mr. Gills summarized the staff's activities in regards to the review of the applications, including an evaluation of the project schedules, in order to achieve the greatest water quality benefits with available resources. He noted that two of the loan requests were not ready to proceed and could be deferred to a later funding cycle. He also recommended that the amount for one applicant be reduced to the maximum amount they had stated they could afford as loan funds. With these considerations, the Board would have sufficient revenue available to fund the \$99.3 million for all the requests that provide direct water quality benefits and were ready to proceed.

Following discussions, the Board voted unanimously to:

1. Target the following 25 applicants for loan assistance from available and anticipated funds and authorize the staff to present the Board's proposed FY 2012 loan project priority list for public review and comment.

1	City of Lynchburg	7,000,000
2	City of Richmond	2,600,000
3	City of Norfolk	10,000,000
4	Alexandria Sanitation Auth.	5,174,000
5	Western VA Water Authority	9,828,000
6	Town of Coeburn	2,094,346
7	Town of Blackstone	3,713,241
8	Botetourt County	910,000
9	Southampton County	926,450
10	Bland County PSA	5,947,035
11	Town of Tazewell	2,847,806
12	Town of Strasburg	22,770,835
13	Fauquier County	7,102,800
14	Eastern Shore of VA PSA	4,000,000
15	Smyth County	472,930
16	Lee County PSA	712,000
17	Blacksburg-VA PISA	3,082,000
18	Louisa Co. Water Authority	1,595,000
19	Town of Rocky Mount	278,600
20	Town of Chilhowie	1,061,500
21	Town of Boynton	1,471,000
22	Alexandria Sanitation Auth.	2,600,000
23	CNW Wastewater Authority	2,469,675
24	Avon Holdings, LLC	531,250
25	Sembilan Enterprises, LLC	120,000

99,308,468

  
Melanie D. Davenport  
Director, Water Division





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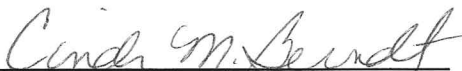
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### **EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011**

#### **MINUTE NO. 12 – Water Division Director's Report**

No report at this meeting.

  
Cindy M. Berndt



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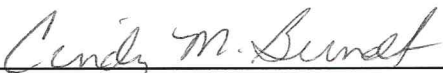
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE WATER CONTROL BOARD AT ITS MEETING ON SEPTEMBER 22, 2011

#### MINUTE NO. 13 – Future Meetings

The Board cancelled October 21, 2011 and confirmed December 8-9, 2011, as the date of the next meeting.

  
Cindy M. Berndt